UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CIVIL ACTION NO. 83-2864 SA

ROSE D. and ANTONIO CIPOLLONE, her husband,

Plaintiffs,

vs.

LIGGETT GROUP, INC., a Delaware Corporation; PHILIP MORRIS INCORPORATED, a Virginia Corporation; LOEW'S THEATRES, INC., a New York Corporation,

Defendants.

Deposition of
THOMAS R. KEIM

Property of: Ness, Motley
Main PI File Room
Charleston, SC

TRANSCRIPT of testimony as taken by and before KELLY L. NELSON, a Certified Shorthand Reporter and Notary Public of the State of New Jersey, at the offices of Brown, Connery, Kulp, Wille, Purnell and Green, 518 Market Street, Camden, New Jersey, on June 13, 1984, commencing at 10:05 o'clock in the forenoon.

- - -

405 Northfield Avenue
West Orange, New Jersey 07052
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A P P E A R A N C E S:

PORZIO, BROMBERG & NEWMAN
BY: MARC Z. EDELL, ESQ.
For the Plaintiffs

BUDD, LARNER, KENT, GROSS,
PICILLO & ROSENBAUM
BY: ANTHONY J. CARUSO, ESQ.
For the Plaintiffs

BROWN, CONNERY, KULP, WILLE,
PURNELL & GREEN
BY: MICHAEL J. VASSALOTTI, ESQ.
And RAYMOND F. DROZDOWSKI, ESQ.
For Philip Morris, Inc.

SHOOK, HARDY & BACON
BY: ROBERT E. NORTHRIP, ESQ.
For Philip Morris, Inc.

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SILLS, BECK, CUMMIS, ZUCKERMAN,
RADIN & TISCHMAN, P.A.
BY: MARC S. KLEIN, ESQ.
For Loew's Theatres, Inc.

GREENBAUM, GREENBAUM, ROWE,
SMITH, BERGSTEIN, YOHALEM & BRUCK
BY: NANCY SIVILLI, ESQ.
For Liggett Group, Inc.

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By Mr. Edell	5

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THOMAS R. KEIM, having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. EDELL:

Q. Mr. Keim, my name is Marc Edell. We were introduced before the deposition started. I am an attorney and my firm is one of three firms that represents the plaintiff in this case.

Have you ever been deposed before, sir?

A. No.

Q. I am sure that you spent time with your attorneys, though, discussing this deposition?

A. Yes.

Q. Do you understand the nature and purpose of a deposition?

A. Yes.

Q. What we're trying to do here today at the risk of being repetitive of some of the things you may have discussed with your attorney, is to find out facts which we believe to be pertinent and relevant to this litigation. If any of my questions are unclear, you don't understand them in the way that I present them to you, tell me and I'll try to rephrase the questions. Okay?

A. Okay.

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Q. If you don't know the answer to a question, tell us. You don't recall a fact, tell us. Because we are going to presume that when you respond to a question, you understood the question, and you are accurately responding to it. Okay?

A. Okay.

Q. You're doing all right so far. All of your answers have to be audible. No nods of the head because she can't take it down. Later, after we finish here today, she will go back and transcribe. When I say she, I mean the court reporter over here, will transcribe what's on here today and it will appear in a transcript form. I don't know if you've ever seen a transcript of a deposition before. But that deposition can be used in a variety of ways at the time of trial, so although we are in a somewhat informal atmosphere, although it's very pleasant, and there are people smoking and it's somewhat relaxed, you still are under oath, and you should treat this with the same solemnity as you would if you were testifying in court. Okay?

A. Okay.

Q. How old are you, sir?

A. 37.

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MR. VASSALOTTI: Excuse me, Mr. Edell. Before you go any further, just a couple of things on the record.

First, we won't waive the reading and signing and we'd like to have Mr. Keim read and sign the deposition when completed.

And second, just so the record is clear, Mr. Keim is produced here today as a designated representative of Philip Morris, Incorporated, pursuant to your Notice which was without date, which sought a designated representative or representatives to testify in various -- numerous areas described. Mr. Keim is here to testify regarding information relating to the sale, marketing, and advertising of Parliament cigarettes during the years 1970 to '74.

That's paragraph (b) of your Notice, and also in response to paragraph (n) of your Notice, he's here to testify regarding the names and addresses of any and all advertising and marketing concerns employed by Philip Morris, Incorporated, with respect to Philip Morris -- I'm sorry, with respect to Parliament cigarettes during the years 1970 to 1974. I believe your Notice has a typo in the dates.

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MR. EDELL: Wouldn't surprise me.

MR. VASSALOTTI: With that, you can proceed.

Q. Sir, when did you first become employed by Philip Morris?

A. December of 1968.

Q. And in what capacity?

A. I was a Marketing Analyst in the Media Department.

Q. Was the Media Department part of the Marketing Department or was it a separate department?

A. Yes, it was part of the Marketing Department.

Q. And how many people were involved in the Media Department?

A. Let's see. I guess there was about a half a dozen.

Q. And on a day to day basis what occurred in the Media Department?

A. My responsibilities there were basically to place the advertising in the media that would be efficient and give broad exposure to our advertisements.

Q. You would take the steps necessary in order to buy time on TV or in newspapers or in periodicals? Is that what the Media Department did

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or would they determine where they should be placing their advertising dollars?

A. What we basically did was calculate the efficiencies of the buys that were being made, evaluate our costs versus industry norms, evaluate different kinds of media in terms of their appropriateness for the kinds of audiences that we should be advertising in.

Q. So you were not directly involved in purchasing media time?

A. No.

Q. Who did that for Philip Morris at that time?

A. I would assume it would have been the advertising agencies.

Q. And you would simply monitor that in terms of seeing whether or not you were getting the best for your dollars, is that correct?

A. That's correct.

Q. How would you go about doing that -- strike that. How did you go about doing that?

A. Well, I remember what I spent most of my time doing which was calculating our ratings and -- in the form of the Nielson reports, and evaluating them against other prime time buys by competitive

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companies as well as industry norms, and seeing what our costs per thousand of yours reached or versus other companies and other norms in the industry.

Q. Who were the other people in the Media Department in December of 1968, and what were their responsibilities?

A. Oh, let's see. Bill Cutler was in the Media Department as a Marketing Analyst.

Q. Doing a similar thing to what you were doing?

A. Exactly. Vinnie Weiner was in the Media Department as I believe a Production Manager, Betty Harper was a Media Estimator, Ann Eichwald was also a Media Estimator.

Q. I'm sorry, I didn't catch that name?

A. Ann Eichwald.

Q. How do you spell that?

A. E-i-c-h-w-a-l-d. Jim Thompson was the Supervisor of the Media Department. I'm not exactly sure what his title was, and he reported to the Vice-president of Media, Donald Harris.

Q. Now, where is Bill Cutler today?

A. Bill Cutler is Director of Merchandising Materials for Philip Morris.

Q. What does that mean?

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A. Basically in charge of developing, producing, sourcing, supplying both permanent and temporary point of sale pieces for Philip Morris, USA's tobacco brands.

Q. Racks, advertising, that sort of thing, point of sale?

A. Not advertising.

Q. Just the racks?

A. Point of sale materials.

Q. That would be the racks?

A. Partially racks, yeah.

Q. What else is there?

A. There's set sell displays, there's wire racks that hold single packs, there's carton racks that hold cartons, there's visible -- visual elements that range from shelf talkers to aisle closed signs in supermarkets, those kinds of materials.

Q. They aren't considered advertising, those point of sale talkers?

A. They're considered point of sale advertising.

Q. Does he handle point of sale advertising, Vinnie Weiner, we're talking about?

A. Does Vinnie handle point of sale advertising.

Q. I'm sorry. Bill Cutler?

A. Well, the way it works at our company is that

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the idea or the concept is developed by the Merchandising Materials group and that's what Bill Cutler handles. The advertising per se, is developed by the advertising group and then placed onto the point of sale piece, so in the sense -- I'm not sure what your question is, but does Bill Cutler handle point of sale advertising, I would say no, he handles the development of a point of sale piece. The advertising is handled in the Brand Management group.

Q. What do you mean by piece?

A. A piece, a display, a wire rack header, a shelf talker, a dangler from the ceiling, that's a piece of point of sale.

Q. But he doesn't develop the idea as to what should be placed upon it in terms of writing, writings or pictures?

A. That's correct.

Q. That's left up to the Advertising Department?

A. That's correct.

Q. Is that how it was back in 1968, same organization?

A. I don't really know.

Q. Who would know?

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A. I don't know. I'm not sure who would know. I'll have to think about that for a minute or two. If you want I can pause and reflect on it but it would have to be back in 1968. Maybe it would be the V.P. of Sales back then and I think that was Max Berkowitz who is retired.

Q. Do you know where he lives?

A. No, I don't.

Q. Do you know what state he lives in?

A. No, I don't.

Q. He had been located in New York when he was working with Philip Morris though, right?

A. That's correct.

Q. Where's Vinnie Weiner today?

A. Vinnie Weiner is in our Media Department today, working as -- still in the area of production of out door signage.

Q. Billboards?

A. And billboards, right.

Q. What did the Production Manager do back in 1968 in the Media Department?

A. To the best of my knowledge, he was working on the production of film commercials that were being developed on behalf of our tobacco brands, and that meant going out to the advertising shoots, making

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sure the budgets were adhered to, that shooting of the commercials was done in a proper production manner, and that the materials, when brought back and edited and produced, were on time and on budget.

Q. Now, back in 1968, what did the Media Estimator do?

A. I'm really not familiar enough with that position back then to respond to that.

Q. What was your understanding as to what they were doing at that time?

A. Basically, it was keeping track of the expenditures, I think, and how much was being spent over a monthly period of time and whether we were on budget roughly or not and estimating expenditures for different kinds of media buys. That would be my impression of what they would be doing.

Q. Would you receive demographic information regarding different forms of media?

A. Sure.

Q. Where would you get that information from?

A. It was available from the network television stations in terms of their sales pitches to us and why we would want to make a buy with them or spend our money over on this buy versus that buy, because they offered better efficiency at reaching, for

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example, adult males.

Q. In what form did you get that information from the networks, TV networks? Did it have a name, a certain type of report or certain type of memorandum or was it --

A. Seems to me, again, you're talking a long time ago, so this is just to the best of my recollection, it was a kind of thing that came over in the form of sales pitches, presentations, from the network people and then they would substantiate that kind of information with Nielson ratings that were broken out by demographics. That's my impression of where that information came from. It seemed like it was sort of around, but I couldn't point to any single thing and say there was a comprehensive piece that used to tell you everything, 'cause I don't remember anything like that at all.

Q. Did you ever receive that type of information personally?

A. Which type?

Q. Information from one of the networks regarding who their viewers were and who watched what doing what periods of time.

A. No.

Q. Who would receive that information?

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A. I would believe the agencies would receive most of that information and pass it along to our supervisors who would then provide us with some of the information when it was needed by us as analysts in the Media Department. We really didn't come in contact and were not put in a position of being out front with the various media contacts in the company and outside the company. We were more back in the back room with our calculators crunching away so to speak.

Q. The real glamorous aspect of the job.

A. Absolutely. It was a glamour job.

Q. Jim Thompson. Where is he today?

A. He is the Vice-president of Media at Philip Morris USA.

Q. Were you ever present at one of these presentations made by the networks?

A. Not by the networks, no.

Q. You were obviously at some type of presentation?

A. We had some exposure primarily at that point in time, to some of the print media people that came in that we were working with, and some of the outdoor folks that we had been working with.

Q. When you say print media, what are you

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talking about?

A. Back then, Life Magazine, Time Magazine, Sports Illustrated, printed media.

Q. And they would make presentations regarding who their readers were and what age groups and --

A. They would come in, yeah, make sales pitches, so to speak, to our media group and present that kind of information.

Q. Why do they present that type of information?

A. I would assume for the same reason that the television people presented it. They were interested in persuading us to place our advertising in their medium and convincing us that by doing so, we would make not only an efficient advertising buy, but an advertising buy that would allow us to reach the kinds of customers that we were looking for to advertise our brands to.

Q. How did you know -- you, how did you know the types of customers you wanted to reach with respect to a particular brand?

MR. NORTHRIP: Excuse me, Mr. Edell. Are you still asking as of '68?

MR. EDELL: That's correct.

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A. Well, at that point in time, again, I wasn't in a position of making that kind of level of decision, what sort of customer should we be reaching. I was more in the position of determining whether or not the buying that was being done, the media placements that were done by others, were in fact delivering the kinds of objectives in terms of efficiencies and the reach that had been established by management.

Q. I understand that.

A. So you're asking me the question how did I know what we were looking for, I really didn't at that point in time.

Q. Well, did you receive any written materials saying this is the profile of the market that we want to reach, are we reaching that market through the advertising media that we're using. Wasn't that your --

A. As a media analyst, no, I didn't do that.

Q. Whose responsibility was that?

A. It was really a responsibility between the folks who ran the Media group at that time and the Brand Management group.

Q. Mechanically, how did they do that?

A. My impression was they periodically sat down and discussed general objectives and established

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some guidelines whereupon the media folks then tried to obtain and reach those objectives.

Q. But for a particular brand, there was a specific market that you were trying to reach, correct?

A. In a general sense, yes. In a specific sense, I really wasn't aware of specifics on a given brand.

Q. Well, in 1968, there was a difference between the market you were trying to reach for a brand such as Virginia Slims as opposed to a brand such as Parliament, correct?

A. Yes.

Q. How did you become aware of the fact that there was a difference in terms of the market that you were trying to reach?

MR. VASSALOTTI: Again, you're referring to 1968.

MR. EDELL: You got it.

A. We were basically at that point, and in that responsibility, told that this is what we were doing.

Q. Right. How did you -- I mean, who told you and how did you get that communication?

A. My supervisor told me, Mr. Jim Thompson.

Q. And what would he tell you, give you a general description as to the market that you're

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going after?

A. He would tell me that Virginia Slims is -- for example, Virginia Slims, is targeted against adult women smokers, and in my capacity as a Marketing Analyst, he would be interested in looking at, for example, a dozen different kinds of media in terms of their efficiencies, cost efficiency and effectiveness in reaching adult women smokers and I would proceed to take on that assignment, for example, and calculate the efficiencies of each medium in reaching that audience.

Q. How would you do that? What information would you use? Where would you get the information?

A. For periodicals I would probably use standard rating data, which has that kind of information broken out by each medium. In some cases we would contact the periodicals themselves. In the cases of television we really didn't get that involved in those kinds of numbers, because they didn't have them broken out that specifically.

Q. What kinds of numbers they didn't have broken out specifically?

A. Efficiencies of reach of women smokers, because back then, we were buying shows that reached certain groups and then we would rotate brands through based

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on general objectives as opposed to really specific kinds of adult demographic breakouts.

Q. Did you ever -- when I say you, I mean Philip Morris -- did they ever perform or ask anyone to perform for them, additional types of studies as opposed to relying upon these statistics to determine the effectiveness of various media advertising?

MR. DROZDOWSKI: 1968?

MR. EDELL: You got it.

A. I really don't know.

Q. Who would know that information?

A. Perhaps Jim Thompson would know.

Q. While you were in the Media Department in 1968, was there any division of brand responsibilities that you had at that time?

A. No.

Q. You would cover all the brands of cigarettes?

A. Yes.

Q. How long did you remain in your position as a Media Analyst?

A. I think it was approximately two years with a six month leave of absence for military service.

Q. And then what position did you hold?

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A. I became Assistant Brand Manager at Marlboro cigarettes.

Q. That's about 1970?

A. Yeah, exactly.

Q. During the period of 1968 to 1970, did you ever become aware that there was a question as to advertising on television? It became an issue in terms of cigarette manufacturers during that period of time?

A. Sure.

Q. In what context did you become aware of it?

A. There was a great deal of publicity and newspaper reporting on the issue of cigarettes advertising or not advertising on broadcast media.

Q. Did you receive any internal communications on that subject?

A. Not to my knowledge.

Q. Were there any meetings held with respect to that subject?

A. No, not that I remember.

Q. You became aware that at some juncture, anti-cigarette smoking advertisements were being placed on TV?

A. Sure.

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Q. As a result of a specific court ruling?
A. I don't remember that, but I was aware of anti-smoking advertisements on TV.
Q. And that occurred somewhere between the 1968 through 1970 period while you were a Media Analyst, correct?
A. The anti-smoking --
Q. Yes.
A. -- ads occurred?
Q. Yeah.
A. Yes, the ads occurred during that period, I believe.
Q. And you became aware of the fact that the cigarette manufacturers agreed to withdraw their advertising off television, correct?
A. Yes.
Q. You were also aware of the effect that the anti-cigarette smoking advertising was having on the sale of cigarettes during that period of time?
A. I'm not sure what you mean by that.
Q. Well, did the anti-cigarette smoking advertising during the period of 1968 through 1970, have an effect on sales of cigarettes?
A. What do you mean by effect?
Q. Did it affect the sales of cigarettes in

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any fashion, cause them to go up, cause them to go down, did they remain the same?

A. I don't really know.

Q. Did anyone at Philip Morris attempt to ascertain what effect if any the anti-cigarette smoking advertisements were having on sales of their cigarettes?

A. Not to my knowledge.

Q. Do you know why Philip Morris agreed to withdraw its advertising off of television?

A. My impression at the time was that it appeared that it was going to be legislated off of television, broadcast media, and that includes radio, and that rather than go through all of the processes required to pass a legal law, so to speak, it was a voluntary agreement that we would just do this if that was the consensus of and I guess it was in Congress at the time, and it was, and then we volunteered to remove our advertising based on that.

Q. How did you gain that impression?

A. Basically through the media, through newspapers and television reporting, watching news shows.

Q. You weren't advised otherwise from any internal communication at Philip Morris, correct?

A. That's correct.

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Q. So the impression that you received as one of the members of the general public, from reviewing cigarette -- strike that.

One of the impressions that you received as a member of society in reviewing newspapers and listening to the news, was that the cigarette companies were withdrawing their advertising in order to obviate the necessity of having legislation passed, correct?

A. That is my impression.

Q. In order to expedite it, is that correct?

A. In order to expedite, yes, I would say that's a fair statement.

Q. And it was not your impression that the reason that they were doing it was because the more that they were advertising, the more time the networks had to permit anti-cigarette advertising, is that correct?

A. That's correct.

Q. And it was not your impression at that time that the anti-cigarette smoking advertisements were having a significant impact on the sales of cigarettes and in order to avoid all of the anti-cigarette smoking advertisements, tobacco companies were withdrawing their advertising off of

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television. That was not your impression, correct?
A. I think as I stated earlier, I really don't know that the anti-smoking advertisements had an effect one way or another.
Q. So it certainly wasn't your impression at that time, then?
A. That's correct.
Q. Would you be surprised to find out that in fact, the anti-cigarette smoking advertising that appeared during the time period '68 through '70 had a significant effect on sales?
MR. VASSALOTTI: Wait a second. I'm going to enter an objection to the question. First of all, what's the relevance of it to this lawsuit? Second, what's the relevance of it to the areas that Mr. Keim is here to testify about? So far you've gone through his employment history and where he's been and what he's done, which I suppose is fine if you want to get his background. But you left that area now and you're into an area that really has nothing to do with what he is produced here to testify about, and has nothing to do with his employment with the company, and I think it's an improper question.
MR. EDELL: Well, if you want to direct

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him you can direct him not to answer. It's your prerogative.

MR. VASSALOTTI: We've entered our objection.

MR. EDELL: Want to answer the question?

THE WITNESS: Could you repeat the question?

MR. EDELL: If it makes sense, repeat it, okay. If it doesn't I'll rephrase it.

(The record is read back as requested.)

A. I guess I would, yes.

Q. Why?

A. Because I'm not sure what kind of significant effect you're talking about, whether it's positive, negative, or otherwise.

Q. Would you be surprised to find that sales were substantially reduced during that time period?

A. In 1968 to 1970.

Q. Yes.

A. Sales of Philip Morris cigarettes?

Q. Cigarettes generally.

A. The cigarette industry.

Q. Yes, sir.

A. How do you define substantially?

Q. More than they had ever dropped for a

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consistent period of time before.

A. I wouldn't be terribly surprised by that definition of substantially, no.

Q. During the period 1968 through 1970, you did not keep track of sales of Philip Morris cigarettes, is that correct?

A. No.

Q. You would never review those statistics?

A. Only in the sense that as an employee, perhaps in any department in the company, it was sort of known and discussed as to whether the company was having a good year, a not so good year, or whatever kind of a year. In that sense, you knew kind of what the sales were, but specific numbers and such, no, I had nothing to do with those at all.

Q. Well, as an employee, are you informed as to whether or not it's been a good year or a bad year or an average year?

A. No, not really.

Q. Just --

A. Not as a Marketing Analyst in the Media Department, no.

Q. You would just hear it from word of mouth?

A. I get company bulletins posting the quarterly earnings reports on the bulletin boards. If you

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owned a share of stock, you'd get an annual report or you could request one from somebody up in the Public Relations Department or something like that and find out how they were doing.

Q. During the period 1968 through 1970, what advertising agencies did you deal with, if any?

MR. VASSALOTTI: I'm going to object again to the question as being outside the relevant time period with the exception of 1970, for Parliament cigarettes, for which Mr. Keim is here to testify today.

MR. EDELL: I don't think you can produce a witness who has knowledge that may be relevant to the litigation, and say you can only examine him on a finite area when in fact he has information which is relevant outside of what you consider to be the finite area that you are producing him to testify on.

MR. VASSALOTTI: You defined the finite area, not us.

MR. EDELL: You're absolutely correct.

MR. VASSALOTTI: And he's here to testify regarding those areas that you described.

MR. EDELL: That's correct.

MR. VASSALOTTI: And he's not here to answer every question about what happened at Philip

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Morris from day one to 1984.

MR. EDELL: We're not talking about day one. We're talking about 1968 which is considered to be the relevant time period with respect to Philip Morris.

MR. NORTHRIP: I think on that question you can give an instruction if you want.

MR. VASSALOTTI: Yeah. I was just going to say, he's here specifically produced for that purpose, and we're going to instruct him not to answer any question at least as far as it goes outside of 1970 and doesn't relate to Parliament cigarettes.

MR. CARUSO: Off the record.

(Discussion off the record.)

BY MR. EDELL:

Q. Mr. Keim, did you in any way deal with Virginia Slims during the time period 1968 through 1974?

A. No.

Q. You didn't deal with any of the advertising for that brand?

A. No.

Q. In terms to evaluate the media efficiency for advertising for that brand?

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A. I would have looked at media on all tobacco brands as I told you earlier as a Media Analyst, but in terms of working with the advertising which is what you just stated, no, I had nothing to do with Virginia Slim's advertising during the 1968 to 1974 period.

Q. But you dealt with media, be it a television or be it a particular periodical in which advertising for Virginia Slims appeared, correct?

A. That's correct.

Q. And you dealt with advertising companies that -- or you received information from advertising companies that performed advertising for Virginia Slims during that period of time, didn't you?

A. Relating to the media placement of advertising --

Q. That's correct.

A. -- is what I dealt with. Not relating to the advertising itself.

Q. That's right. But you would deal with the effectiveness and the efficiency of advertising as it appears in particular media for Virginia Slims?

A. That's correct.

Q. And that is again for the time period 1968 through 1970, correct?

A. That's correct.

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Q. What are the names of the advertising companies that you dealt with from 1968 through 1970 regarding Virginia Slims?

MR. NORTHRIP: We'll keep our objection on the record but we'll let him answer that question.

MR. VASSALOTTI: We'll allow him to answer.

A. The Leo Burnett Company was the advertising agency that handled Virginia Slims that I dealt with.

Q. And what contact did you have with Leo Burnett?

A. Contact I had at Leo Burnett was basically some phone calls to their Chicago media group and I can't even tell you what it would be regarding, 'cause it's just too long ago.

Q. Did you have any contact with a specific individual at Leo Burnett during that time frame?

A. Yes.

Q. Who was that?

A. Doree Miller.

Q. Do you know whether or not it's a she?

A. She.

Q. Do you know whether or not she is still with Leo Burnett?

A. I don't know.

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Q. Anyone else? Did you have contact with anyone else at Leo Burnett during that time frame?

A. Not really.

Q. During the period 1968 through 1970, did you have any contact with anyone in the Advertising Department -- strike that.

During the period 1968 through 1970, did you have any contact with anyone in the brand group for Virginia Slims?

A. No.

Q. Do you know who the Brand Manager was at that time?

A. I'd have to guess to give you an answer. I really don't remember. It could have been one of a couple of people I remember.

Q. Why don't you give us the names of the couple of people and we'll figure out when they were.

A. One of the early Brand Managers was a guy by the name of Larry Williams, I think. Another one of the early Brand Managers I believe was Jim Morgan and I remember a third one named Steven Corsen, but I'm not sure who was there when.

Q. Do you know where these people are today, any of those people?

A. Larry Williams is at Miller Brewing in

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Milwaukee, Jim Morgan is with Atari in California, and I really don't know where Steve Corsen is.

Q. Do you know what position Ellen Merlo had between 1968 and 1970, if any --

A. No, I don't.

Q. -- at Philip Morris? Do you know Ellen Merlo?

A. Sure do.

Q. When did you first meet her?

A. About 1973, I guess, might have been 1972. I'm not absolutely sure.

Q. Under what circumstances did you meet her?

A. She was in our Public Relations group and we were working on a promotion together on the Marlboro brand.

Q. In 1968, what did the Public Relations group do?

A. 1968? I really don't know.

Q. When was the first time you had any contact or became aware of the Public Relations group at Philip Morris?

A. I guess about 1971 or so.

Q. Before 1971, you didn't even know it existed, is that correct?

A. That's about right, yeah. When you come into a

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company as a new employee, you don't really have an immediate acquaintance of every department and every group in its operations and what they do.

Q. Under what circumstances did you become aware that the Public Relations group existed at Philip Morris?

A. I think my impression of the Public Relations group when I first remember them, was that they were always running around at the end of the year trying to get an annual report together and that was sort of my impression of what they were doing. They also had some programs around the Kentucky Derby and with our Louisville operations, and that's basically my impression of what they did.

Q. Tell us a little bit about your education, would you please?

A. Went to high school in Flint, Michigan, went to the University of Michigan and graduated with a Bachelor's degree in business administration.

Q. What year?

A. 1967, and attended North Texas State University in Denton, Texas and received my MBA in 1969.

Q. MBA in what?

A. Marketing.

Q. You ever smoked?

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A. Yes.
Q. You smoke now?
A. Yes.
Q. When did you start smoking?
A. I guess when I was about 21 or so, 22.
Q. What brand?
A. I was a pipe smoker.
Q. You don't smoke cigarettes?
A. No, I don't.
MR. VASSALOTTI: Mr. Edell, just let me note an objection to the whole line of questioning as to Mr. Keim's personal smoking history. You can continue.
Q. You ever tried cigarettes?
A. Sure.
Q. You didn't like them?
A. Didn't really -- didn't really understand what the cigarette smoking experience was all about. They didn't have much taste for me.
Q. How old were you when you first tried cigarettes?
A. I guess I was about 20.
Q. Under what circumstances did you try cigarettes?
A. I tried one of my parents'.

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Q. How do you recall that you were 20 years old when that occurred?
A. I remember getting -- getting yelled at for trying cigarettes.
Q. Parents didn't think you were old enough?
A. No, they just didn't think I should smoke, I guess.
Q. Why?
A. They felt it would be bad for me.
Q. Bad for your health?
A. Yes.
Q. Did they smoke?
A. Yes.
Q. Do they still smoke?
A. No.
Q. Are they alive today?
A. My dad died a few years ago.
Q. Your parents ever try to quit?
A. My mom obviously did quit.
Q. Did your father ever try to quit?
A. He'd stopped smoking a few years before he died, yeah.
Q. For health purposes did he stop?
A. I don't know. He said he just lost his taste for it.

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Q. When you came with Philip Morris in 1968, did you have an impression as to whether or not cigarette smoking was harmful?

MR. VASSALOTTI: Again I'm going to object to the question in terms of relevance. The witness can answer if he can.

Q. Again, I thought you understood my direction in the beginning. If you can't answer a question, you can't answer it, right? Only answer those questions that you can answer.

That will avoid the necessity of your having to say that again, Mr. Vassalotti.

A. The answer to your question is yes, I had an impression.

Q. What was that impression?

A. My impression was that there was a controversy regarding cigarettes.

Q. Well, what had you been exposed to to lead you to believe there was a controversy?

A. I suppose it was basically just the controversy as it would have been reported and known at the time in news and public opinion.

Q. Were you aware in 1967 as to what the Surgeon General's position was with respect to cigarette smoking?

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A. Not specifically, no.

Q. Generally?

A. Generally, yes.

Q. And what was that position as you recall?

A. I think he felt that it would be -- that smoking was harmful.

Q. In 1967, what was the outstanding question in your mind which led you to believe that there was a controversy?

A. My impression at that point was pretty much that some people felt it was harmful and some people felt it wasn't harmful.

Q. How did you get that impression that some people thought it wasn't harmful?

A. I suppose through news mediums and reporting on this issue in the papers.

Q. What periodicals, what newspapers did you read back in 1967?

A. Well, you're talking at a time when I was --

MR. VASSALOTTI: Excuse me, Mr. Keim. I'm going to object to the question and instruct the witness not to answer. I think we're getting into an area that again, has nothing to do with what this witness is here to testify about. I suppose we can go on ad infinitum, but as Mr. Northrip said earlier,

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which wasn't put on the record, you've already produced three witnesses and examined extensively in areas which are not within the relevant time period as defined by Judge Cowen. They didn't have any significant information in those time periods and we have a witness here today who hopefully does, and again, we're not even getting to the area.

MR. EDELL: We will.

MR. VASSALOTTI: I hope so. Just let me state again I had objected earlier with regard to the line of questioning regarding Mr. Keim's personal smoking habits and again interjected an objection when you got into his personal beliefs. It's our position Mr. Keim is not an officer of the company, is not involved in the policy making decisions of the company, his opinions and beliefs in those areas have no relevance in the action and he certainly doesn't speak for Philip Morris in those areas and that's what he's here to speak for today, in the areas that he does have knowledge.

MR. EDELL: He's also here as a witness and he's -- I'm entitled to cross examine him on issues that are relevant to this litigation regardless of whether or not you want me to. I don't think you can relegate me to only examination

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of him with respect to the particular paragraph that you say you were producing this gentleman here on.

MR. VASSALOTTI: Well, that's the paragraph that you wanted someone to come and testify about. And that's what he's here to testify about.

MR. EDELL: I understand that, but if he has information which is relevant, in terms of other issues in the case, I'm certainly entitled to that information.

MR. NORTHRIP: His personal belief, what he may have known about smoking/health controversy, isn't relevant in my opinion if he's not an officer of the company and not speaking on behalf of the company. One thing to ask that to a chief executive. It's another to ask it to somebody who is not an officer.

MR. VASSALOTTI: Under your reasoning, you can bring in every employee of Philip Morris and ask that line of questioning, that line of questions and it just doesn't seem to make sense.

MR. EDELL: Your direction stands that he's not to tell what newspapers he was reading back in 1967, is that correct?

MR. VASSALOTTI: Yeah.

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BY MR. EDELL:

Q. What information did you get when you came to Philip Morris with respect to cigarette smoking and health, if any?

MR. VASSALOTTI: From who?

MR. EDELL: I'm sorry. I'll make that clear. I thought it was implicit in the question.

Q. Did you receive any information from Philip Morris at the time that you first became employed by it, concerning cigarette smoking and health?

A. No.

Q. Did you at any point in time receive any information from Philip Morris with respect to cigarette smoking and health?

A. At any time during my career at Philip Morris?

Q. Yes.

A. Yes, I have.

Q. When was the first time you received such information?

A. I don't recall.

Q. Was it within the first two years that you were there?

A. I don't believe so.

Q. When is your first recollection of

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receiving any information with respect to cigarette smoking and health from Philip Morris?

A. I really can't remember any specific year that I received it. I just know that periodically -- it may be more recently than that -- we received brochures that have been published by the Tobacco Institute that Philip Morris has circulated to management to keep them updated on the Tobacco Institute's position on certain issues in the tobacco industry.

Q. Do you have an understanding as to the purpose for their circulation of that information?

A. I really don't know what the company's purpose in circulating that information is, other than to keep employees updated on these issues.

Q. When you say these issues, what issues are you talking about?

A. Smoking and health issues.

Q. Do you still hold the same belief that you had when you first came with Philip Morris that there is a controversy that exists with respect to cigarette smoking and health?

MR. VASSALOTTI: Again I'll just note an objection. The witness can answer.

A. Yes, I do, really, now that I think about it.

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Q. Upon what information do you base your statement that a controversy still exists with respect to cigarette smoking and health?

A. It's really the same kind of information that I based it on when -- before I even started working for the company and that is that there's two sides to the issue and arguments are still being made one way and the other.

Q. Who makes the argument that cigarette smoking -- it hasn't been established that cigarette smoking causes disease in human beings? The Surgeon General doesn't, right?

A. I don't know. You know, I'm not up on the specific issues involved in smoking and health arguments and I'm really not qualified to give you any kind of who's doing what with these issues.

Q. You don't perceive that to be relevant to your job with Philip Morris, is that correct?

A. No, not really.

Q. No, you don't think it's relevant?

A. They're not relevant to my job at Philip Morris, excuse me.

Q. So in terms of your responsibilities and your employment with Philip Morris, you don't think that it's necessary for you to evaluate whether or

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not in fact, a controversy exists regarding cigarette smoking and health, is that correct?

A. Can you explain to me what you mean by evaluate whether a controversy exists?

Q. Sure. Do you make a concerted effort to determine what information is available concerning cigarette smoking and health?

A. No.

Q. You only read those things that you may see in newspapers, is that correct?

A. Or are circulated on occasion by the company from the Tobacco Institute.

Q. Okay. So you don't attempt to seek out information on the issue of cigarette smoking and health, is that correct?

A. That's correct.

Q. And that is because you don't think that it's necessary for you to seek that information out because it's not germane to what you do in your responsibilities at Philip Morris, is that correct?

A. That's correct.

Q. You don't particularly care whether or not the controversy is a real controversy or whether it is not a real controversy, is that correct?

MR. VASSALOTTI: I'm going to object to

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the question and instruct the witness not to answer.

MR. EDELL: On what basis?

MR. VASSALOTTI: Basis of you've asked the question, now you're trying to characterize his testimony, I think, and he's already said he doesn't -- his job duties don't involve the consideration of smoking and health issues. Now you're characterizing the controversy as real or not real.

Furthermore, again, Mr. Keim is here as an employee of Philip Morris, not as an officer or a policy maker or director and his opinions in those areas aren't relevant. You've asked him as those issues relate to his job and he's answered and now you're getting into areas beyond that. I think it's objectionable and instruct him not to answer.

Q. What's your position with Philip Morris, sir?

A. Currently?

Q. As we sit here today.

A. Director of Marketing Communications.

Q. What does that mean?

A. My responsibilities basically entail working with the media to publicize brand promotional activities and promotion programs.

MR. EDELL: Could you read the answer

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back, please.

(The record is read back as requested.)

Q. What do you mean by publicizing brands, working with media to publicize brands. What does that mean?

A. I believe I said publicize brand promotions..

Q. I'm sorry. What do you mean by that term? What does that entail?

A. Various brands at Philip Morris have promotions. And those promotions when they take place attract a certain amount of spectator and media interest and we work to make sure that that media test -- that the media that come are interested in finding out about these promotions, have access to all the information they need, and can do their job in terms of reporting on those promotions.

Q. Give us an example as to a certain type of promotion that you deal with.

A. Virginia Slims sponsors tennis tournaments.

Q. And you make sure that the media people are there, such as newspaper reporters, and people that cover the event?

A. We don't make sure that they're there. We don't determine that at all. They determine that.

Q. Well, what do you do?

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A. We invite them, we make sure that they have credentials to get in, access to the event, we make sure that the results are reported accurately and provided to them on a timely basis, so that their coverage of the event if they deem it appropriate to coverage the event, is accurate and up to date.

Q. Getting back to 1970, you became brand -- Assistant Brand Manager for Marlboro, correct?

A. Yes.

Q. Is that part of a group, Marlboro? Is that part of another group or was it just one --

A. Well, Marlboro is a brand, it's part of a group of brands at Philip Morris.

Q. What group of brands?

A. Today or back in 1970?

Q. Back in 1970.

A. Oh, boy. I'll tell you the ones I remember.

MR. NORTHRIP: Excuse me just a moment. Are you asking him to name all the brands at Philip Morris in 1970?

MR. EDELL: No, the group of brands.

MR. NORTHRIP: I think he's interpreting.

THE WITNESS: I'm interpreting that as name the brands that Philip Morris had in 1970.

Q. I'm sorry. It's not divided to maybe

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four or five brands come within a certain group of brands, is that correct?

A. I guess I don't understand your use of the word group. It doesn't mean anything to me. Can you give me --

Q. Sure. I'll do my best. We know that there's a Brand Manager, correct?

A. Yes.

Q. For Marlboro?

A. Yes.

Q. That Brand Manager has certain responsibilities for Marlboro cigarettes, correct?

A. (Indicating.)

Q. Now, is there someone that that person answered to, in 1970? Was there some person that the group -- I'm sorry, that the Brand Manager answered to?

A. In 1970, the Brand Manager reported, my recollection is that he reported to a Director of Brand Management, as did all other Brand Managers at that time.

Q. And there was one Director of Brand Management?

A. Yes.

Q. For all of Philip Morris?

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A. In 1970 there was.

Q. And who was that?

A. Cliff Wilmot, I believe was the Director of Brand Management back then.

Q. And where is he today?

A. I have no idea.

Q. When is the first time you had any -- strike that. How long did you remain as Assistant Brand Manager for Marlboro cigarettes?

A. I think it was about two years, roughly two years.

Q. And then what happened?

A. Then I became Assistant Brand Manager on smoking tobacco.

Q. What is smoking tobacco?

A. Pipe tobacco.

Q. How long did you remain Assistant Manager, did you say?

A. Brand Manager.

Q. Brand Manager on smoking tobacco?

A. Seems like it was about five, six months maybe.

Q. And then what happened?

A. Then I became Brand Manager of smoking tobacco.

Q. And how long did you remain Brand Manager of smoking tobacco?

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A. I think it was about eight or nine months.

Q. And then what happened?

A. Then I believe I went to Parliament as Brand Manager.

Q. That would have been sometime in 1975?

A. If that's what it adds up to be, yeah. I start getting a little fuzzy about the specific months, but it should have been about '72 or three, something like that, yeah. I mean, I'm sure we could go back and dig out the specific months if you're --

Q. Who was your predecessor?

A. On Parliament? It was John Kirtland, guy by the name of John Kirtland.

Q. K-i?

A. K-i-r-t-l-a-n-d.

Q. Is he still with the company?

A. No, he's no longer with us.

Q. Do you know where he went?

A. I think he's employed by Ocean Spray Cranberries. At least that was roughly a year and a half ago when somebody in the company last heard from him, mentioned it to me.

Q. Do you know how long he had been Brand Manager for Parliament?

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A. No, I don't.

Q. When you took over as Brand Manager, who was your Assistant Brand Manager?

A. I don't believe there was an Assistant Brand Manager on Parliament then.

Q. What did you do when you took over as Brand Manager for Parliament?

A. Basically my responsibilities were the advertising and promotion of Parliament cigarettes.

Q. What did you do to orient yourself to the brand?

A. Well, we spent, I guess back then, we spent about three or four days just working side by side with the existing Brand Manager in the transition period, and he would basically bring you up to date on all of the parts and the pieces of promotional materials, advertising materials, acquaint you with the agency contacts that you needed to know, and bring you up to speed, so to speak, on materials that were in production or in process, so that you could then take over without dropping a lot of balls in terms of the materials that were in production and in process.

Q. Did you receive any written materials from your predecessor?

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A. Well, you basically inherited all the files that they had established and were there on the brand, yeah.

Q. Well, what were contained in those files back in 1973?

A. I don't remember specifically.

Q. I don't expect you to remember that there was a letter dated September 2nd, 1973. I hope you didn't interpret it as being that. What types of documents were maintained by you?

A. Well, you had materials on promotions that had been maybe researched, you had correspondence from consumers, you had service reports from the advertising agency, you had sales reports on the brands, you would have marketing research files. That's what I remember.

Q. Did you examine any of these files? Did you review any of the materials in those files back in 1973?

A. Not really reviewed it. If you needed something that you thought might be in there, you'd dive into the file you might find what you were looking for in and try to look it up.

Q. Was there a marketing plan for Parliament cigarettes when you took over in 1973?

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A. In terms of a written document kind of a marketing plan?

Q. Um-hum.

A. No.

Q. Just -- there was a concept, was that the marketing plan, just something in somebody's head?

A. Well, it sounds a little offhanded, but it basically was. You have an advertising campaign, you have some things that are in process, and all of these elements make up what's going on in terms of marketing of the Parliament brand at that point in time and that really was the marketing plan so to speak.

Q. But no one actually sat down and planned it out?

A. No.

Q. You said you have the advertising campaign. Is that correct?

A. That's right.

Q. How did you find out to whom that advertising campaign was directed?

A. Well, you really didn't.

Q. So you had no idea who the smokers of Parliament cigarettes were at that time and what market you were trying to sell to, is that correct?

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A. You could go back and find out who your customers had been based on marketing research studies that had been done that determined demographics, you know, age group, income, education, so on and so forth.

Q. Did you do that? Did you go back and take a look at that information?

A. Sure, you took a look at that information, yeah.

Q. Why?

A. Why? Just as a point of interest more than anything else.

Q. Just idle curiosity and something you were going to use in terms of your responsibilities as Brand Manager?

A. Well, in terms of my responsibilities as Brand Manager.

Q. How would you use that information?

A. You'd use it really to determine (a), what the base of the business was and one of the responsibilities that you have as a Brand Manager is really to understand your business and in order to understand the business, you need to know who your consumers are so that's why you'd use that information and want to know about it.

Q. You'd want to know that information so as

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to determine or make some intelligent decisions about future promotion and sales of Parliament, correct?

A. Well, you'd want to know it for a couple of reasons. You'd want to know it not only for futures, but you'd want to know it for understanding the past, too.

Q. So --

A. See where it came from.

Q. See how effective things have been in terms of advertising in the past?

A. Not necessarily evaluate -- demographics don't necessarily evaluate advertising effectiveness, no.

Q. How do you evaluate advertising effectiveness?

A. At Philip Morris, we don't really do it any other way than subjectively.

Q. In other words --

A. I know that's a little offhanded, but it's truly the situation. You can evaluate the efficiency of a media buy, but in terms of advertising effectiveness, you'd look at a number of things that were available, advertising recall scores, for example.

Q. What's that?

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A. That's whether or not a consumer would remember seeing your ad in, for example, in a magazine, and you go ask them after they read the magazine, tell me the ads you remembered.

Q. Would Philip Morris do that?

A. Sure.

Q. What department was responsible for doing that?

A. Marketing Research would be doing research reports. We're talking about using research information.

Q. Would they actually go out there and do these recall studies themselves or would they hire somebody to do that?

A. Some of them were done both by us, I think in the form of our tracking studies which have been, you know, utilized over the years periodically, as well as some outside folks occasionally did some.

Q. Who did you ever use outside of Philip Morris for that purpose?

A. I don't know whether we were using them back in the time period we're talking about, but I remember having some advertising research recall kind of reporting done by a group called Gallup and Robinson. They used to come in and periodically report on, I

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think, recall and if my memory serves me correctly, reach was another.

Q. What do you mean by reach?

A. Reach sort of referred -- it's not just whether you recalled an ad or not, whether you recalled anything specifically about the ad, in other words, how well did that ad communicate its copy.

Q. What kind of study is that called, is there a particular name for that?

A. I don't remember it had a particular name that we would think of -- I used to think of as reach, how well the ad communicated a specific point and recall was just whether they remembered seeing an ad or not.

Q. Did you see copies of such studies in 1973?

A. I don't remember --

Q. For Parliament?

A. -- whether we were doing those kinds of things in 1973.

Q. But basically, it was sort of whatever your gut feeling was about how effective the advertising campaign was?

A. Well, you and your immediate supervisors who were working with you closely, sure.

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Q. On what facts did you base this gut reaction as to the success of your advertising campaign?

A. I'm sorry. Could you -- what facts?

Q. Yeah, what facts. Are there any facts that you had upon which you base this visceral reaction?

A. No. Not really.

Q. How would you come to this conclusion as to whether or not it was successful or not in a particular advertising campaign?

A. The skills and exposure that I had had as a result of my previous experience on Marlboro and smoking tobacco, and the judgments that I'd made during that course of time and the exposure I'd had to different advertising, were really what summed up my ability to look at Parliament and say here's what I think Parliament advertising is doing or not doing, as the case may be.

Q. Would you refer to any particular facts to see whether it was doing something or not doing something or you just look at a piece of advertising and say this looks like a nice piece of advertising and I base this upon my experience as Assistant Brand Manager of Marlboro cigarettes and Brand

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Manager for smoking tobacco. Is that what you did?
A. Yes.
MR. NORTHRIP: Could I say something here? I'm not sure that you're communicating right now because I think of the difference -- and maybe I shouldn't be getting involved --
MR. EDELL: I don't think you should really get involved.
MR. NORTHRIP: I won't, then.
MR. EDELL: The witness's testimony is what it is. And if you don't understand my questions, please, I thought I made that -- did I make that clear to you in the beginning? If they didn't make sense, if from your perspective. You already stopped me once and said you didn't understand it and I tried to make it intelligible in terms of your area and your profession, correct?
THE WITNESS: Correct.
Q. Do you know how much was spent on advertising for Parliament cigarettes in 1970?
A. In 1970? Not really, no.
Q. How about 1973?
A. I'd be guessing. I really don't remember the specific expenditures on Parliament during that time.
Q. You knew you were coming here today to

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testify with respect to advertising for Parliament, right?

A. That's correct.

Q. Did you take a look at any documents to get you up to speed on what occurred back in 1973 so you wouldn't have to make any guesses?

A. Yes, I did, as a matter of fact.

Q. What documents did you look at?

A. I looked at everything that they sent me from my requisition which was all the Parliament files during 1970 to '74, I guess. And what I got was a bunch of tracking studies and I think there was one marketing research document in there on something. Didn't seem to be terribly informative 'cause it seemed ancient and --

Q. Where did you send for those documents?

A. Well, most of our files are kept in a place called Carlstadt, New Jersey.

Q. Mechanically, what do you do if you want to requisition a file? I mean --

A. Mechanically what I do is just tell my secretary to send over the files and I think then she calls whoever's in charge of our file area, and they look up and see what we have in our storage area, and ship them over. That's for permanent

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files. There's also like an over -- or same day, I forget, quick file system or something like that.

Q. Quick Retrieval?

A. Quick Retrieval System, yeah, and that's -- the same group runs the same thing. To get something out of Carlstadt takes a couple, three, four days, maybe even a week before they get around to shipping the stuff in and the Quick Retrieval is supposed to -- you're supposed to be able to get it like in a day.

Q. Who's in charge of that, do you know?

A. I'm not sure who she called. I think of a lady by the name of Janie Bernard.

Q. Is this the first time that you've ever had to requisition an old file?

A. No, from time to time somebody's looking for something that was a report from way back when and he said well, I remember it was in the old files from that year, so haul them out and you go through and you look for stuff.

Q. What did you learn from reviewing these files that you got regarding Parliament for 1970 to 1974?

A. What did I learn?

Q. Yeah. I mean after you read them, did it refresh your memory with respect to certain

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information?

A. I really didn't read every single piece of information that's in there. It's some pile of reports.

Basically what I learned was that what we have on Parliament is a bunch of tracking studies and that's about it.

Q. And what do tracking studies show?

A. Tracking studies are basically studies that are done as I noted earlier, on a periodic basis that determine estimate smoker shares, that break down smoker shares by age, by income, by education, so on and so forth. Demographics, some geographics, and they track so to speak, over time, smokers' shares and give you trends in those categories.

Q. Other than the tracking studies, were there any other documents? I believe you mentioned a marketing document, research document, you said it was old?

A. Yeah. I think what it was was a packaging research document. I just quickly glanced at it because it just didn't seem to be that important. It was more like a very simple preference test on package (a) versus package (b). It might have been for the package change that was done sometime in the

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mid-'70s on Parliament or early '70s. I don't really remember when it was done.

Q. Was there anything else in these files other than tracking studies and this one marketing research study?

A. That was it. That was all I saw.

Q. Did you attempt to find out whether or not there were any other documents that were available?

A. Oh, yeah. I couldn't -- you know, I looked at the pile of stuff and I said all that's here are tracking studies and I thought all they sent over was tracking studies and he said no, they went through all the cards and they pulled out everything on Parliament and that was it.

Q. Went through what cards?

A. They have like cards that they keep on here's what the files are. In other words, whenever we send over a box to file in Carlstadt, there's a card on that box that's kept in our office so that one and one we know what we've got and we know what's still around.

Q. Well, how do they know whether they're giving you everything on Parliament? Did they look through every one of these cards for the period 1970

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through 1974?

A. Well, they shipped over the box that was there. That's all they had on Parliament.

Q. Was it all in one box?

A. I don't really know. It might have been spread in a bunch of boxes.

Q. When you received these documents and after you reviewed them, you became aware that there must have been additional documents regarding the marketing and sale of Parliament cigarettes that existed at some point in time other than those that you received, correct?

A. Oh, sure. You mean when I became Brand Manager, I was describing to you earlier, things like service reports, consumer correspondence, sure. There's a bunch of those kind of documents around.

Q. And those things were apparently either one, destroyed or two, they weren't part of your requisition, correct?

A. That's correct.

Q. When you went to -- you got your MBA in marketing, right?

A. Right.

Q. 1968, '67, '68?

A. '69.

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Q. '69. Did you learn certain steps that you take in terms of marketing a product? Are there certain steps that you take? Certain studies that are performed?

A. Sure, yes, I did. I learned that.

Q. And what did you learn in terms of the types of studies that are performed and the types of plans that you make in terms of selling and marketing a particular product? Did you learn that a marketing plan was fundamental in the sale of a product?

A. Not really, no. Not in the sense I believe you have been referring to a marketing plan. If you're asking me what I learned in my Masters degree in marketing about marketing a product, I learned lots of things.

Q. Well, are there steps that you learned? Did you go through -- I mean, is there a progression of steps that you go in terms of marketing a particular product? Are there things that you do that you would do for all products regardless of whether you're selling widgets or you're selling cigarettes?

A. I would say no.

Q. When I say the same things, there are

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variations, but it's your testimony that are there similar -- excuse me. Are there similar steps that one would take regardless of whether you're marketing widgets or you're marketing cigarettes?

A. Not necessarily.

Q. What books did you use when you got your MBA in marketing? Do you remember any of those books?

A. Oh, boy. No, not really.

Q. Is there any book that you consider to be a reliable source on marketing?

A. This is really a long time ago. No.

Q. Something that you can refer to today.

A. I remember a book by Stanton, S-t-a-n-t-o-n, and I think it was called Principles of Marketing. I'm not absolutely sure.

Q. Are there principles in marketing?

A. Yes, sure.

Q. What are some of the principles of marketing?

A. I guess I would tell you that one would define one's market, one might want to make sure that the product is available to the consumer, and one might want to make a profit in so doing those activities.

Q. Those are the marketing principles that

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you can recall?

A. In a very broad general sense, yes.

Q. Can you give me any more finite principles other than those broad principles?

A. Pricing of a product would be a critical part of that process, promotion of that product would be a critical part of that process. I guess that would be it.

Q. How do you differentiate your product from somebody else's product, assuming that it's a similar type of product, such as one cigarette from another?

A. Assuming it's a similar product, you really have to differentiate it by den of your communication about that product.

Q. Such as advertising?

A. Exactly, or promotion or publicity.

Q. In 1970, how was Parliament any different than any other cigarette manufactured by Philip Morris?

A. In 1970, Parliament had a recessed filter, and if my memory serves me correctly, there was only one other product available in the marketplace that had a recessed filter and it was very small in terms of sales and relatively unknown.

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Q. Was that the basic selling point for Parliament, this recessed filter?

A. Yes, absolutely.

Q. What, if anything, did you -- strike that. Did you ever attempt to ascertain what if anything the market that was purchasing Parliament cigarettes found attractive about the recessed filter?

A. Yeah. Yeah, we did.

Q. What if anything did you do in that regard?

A. We did a focus group study with consumers about just what, you know, what their perceptions of what they liked about that recessed filter was.

Q. What were the results, generally?

A. Generally speaking, the results I remember was that everybody sort of had a bunch of different reasons for why they like it. There was no one single reason why this person liked Parliament more than that person. Some people didn't even care about the recessed filter, as a matter of fact, they just liked the taste of Parliament. Some people liked Parliament because of the packaging. Some people liked Parliament because they thought the recessed filter felt better on their lips. Some people just liked the look of the recessed filter.

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It was always -- there was never a single reason that was dominant in terms of people and why they liked Parliament.

Q. Does that focus group study still exist?

A. I'm not aware that it does, no.

Q. Did Philip Morris perform that study itself or did it ask somebody else, an outside agency to perform that study?

A. We had retained an outside agency to do that.

Q. Who's that?

A. Marketing Research group, I believe it was Milt Brand.

Q. I'm sorry?

A. Milt Brand was a marketing -- fairly well known Marketing Research group.

Q. They still exist?

A. I don't know, I really don't know.

Q. Where were they located?

A. I'm not sure where they were located. We did the study in Detroit, Michigan.

Q. Who'd you have contact with there?

A. Don't remember at all.

Q. How is the focus group study performed?

A. They would find Parliament smokers in the Detroit area, they would have them -- pay them to

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come in and work with them in a research environment from a room that would be maybe eight or 10 Parliament smokers, for example, and a researcher would conduct the session in the room, would talk to them about their smoking experience, past brands they had smoked, and depending on, you know -- in this case, they were talking about why they liked Parliament, would ask each individual to discuss you know, how they started smoking Parliament, why they liked Parliament, why they made Parliament their regular brand, whether they bought it in single packs, one at a time or whether they bought cartons, what kind of retail outlet they bought it in, whether it was a supermarket or a newsstand or whatever, and then talk to them about what Parliament advertising they had seen, where they had seen it, what specifically they remembered from seeing Parliament advertising, those -- I think that pretty much covers.

Q. How often is that done?

A. Once that I remember during this time period.

Q. Has the Parliament brand changed since 1970 through 1974?

A. Yes, sales have gone down.

Q. Other than the sales, has the approach to

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sales -- has the product changed at all?

A. No, you know, changed in terms of its general positioning, communications positioning, no. I don't think.

Q. So it's being sold in the same manner that it was being sold back in 1970, 1974?

A. That's right.

Q. The basic selling point being the recessed filter, is that correct?

A. That's right.

Q. Why is it if you have an opinion, that the sales have gone down?

A. My feeling the reason the sales didn't go up -- I choose to view it that way as opposed to go down -- is because it was a time of heavy competitive spending by a lot of brands in the industry, that the current advertising that we were utilizing at that time was not particularly relevant or meaningful in terms of its communication as to why people would want to smoke a Parliament perhaps.

Q. What approach? I mean you say it's not particularly meaningful. Why was it not meaningful?

A. I don't really know. If we'd have known that we might have been able to do something about it. Maybe it just didn't relate to why -- relate to them

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enough to make them want to try a pack of Parliaments or buy a pack of Parliaments which is what you would have to do to try a pack of Parliaments.

Q. Was there any effort made to ascertain why people weren't smoking Parliament as much as they used to?

A. The kind of thing like the focus group, sure.

Q. Another type of focus study?

A. Would be you'd call in a group of people that hadn't smoked Parliaments, that smoked maybe some competitive brands and you talk to them about Parliament and ask them if they'd ever tried it or whether they'd ever bought it or whether they'd ever seen any advertising for it and what the advertising said to them, if they'd seen it, and you know, you'd ask the person a question. What will we have to tell you about Parliament that could possibly interest you in smoking this product.

Q. Do you know whether that was ever done?

A. I don't believe it was ever done in Parliament while I was there, no.

Q. During the time period 1970 through 1974, did sales go up on Parliament, stay the same, or go down?

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A. '70 through '74, depends on what numbers you look at. I think they went up a little bit and about '74, '75, they started peaking down a little bit.

Q. What was your position in 1974, 1975?

A. '74, I can't remember them by years. Let's see. I think I became a Virginia Slims Brand Manager about that time. It was around '74, something like that. Maybe '75.

Q. How long were you Brand Manager for Parliament?

A. I think it was about two years.

MR. EDELL: Let's take a short break.

(Short recess.)

Q. Do you recall that there came a point in time that warnings were placed on advertising for cigarettes?

A. Yes.

Q. Do you recall when that was?

A. I think it was about 1971.

Q. And do you recall any discussions with respect to -- at Philip Morris, of course, with respect to those health warnings?

A. I'm sure, yeah, as a matter of fact.

Q. What discussions occurred that you can

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recall?

A. Well, at the time, we were very concerned about how we were going to be able to photograph the packages on the side, where the warning appeared, and make it legible and readable and still a visible part of the ad and be able to lay out the ads the way we still wanted to lay them out and make good ads with these new regulations. That was what we talked about.

Q. And how was it resolved?

A. Well, it was resolved by doing a lot of test photography and a lot of different package configurations and presentations to pick out the ones that resulted in being legible and we could utilize in terms of angulation and everything else that goes into the composition of an ad. At this time we were talking about print advertising.

Q. And that's when -- strike that. That's when the warning on the advertisement appeared on the side of the cigarette, is that correct?

A. That's when we first started doing it, yes.

Q. Did there come a point in time where that changed?

A. Yes, I think it was about -- might have been a year, year and a half, two years later. I'm not --

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Q. What precipitated that change?
A. As far as I know, new regulations. I don't really remember specifics of the -- why the change, I just know that new regulations came through and we had to move to a warning box as opposed to picturing it on the sides of the packages.
Q. How did you become aware of that?
A. We received a note from our legal counsel saying that we would have to make these changes happen in our advertisings, effective such and such a date and to start doing what we had to do to accommodate.
Q. Now, who decides where the warnings should be placed on the advertisement? Who decided that -- let's go back to 1973 for Parliament cigarettes.
A. Who decides where the warning would be placed?
Q. Yeah. Whether to place it directly in the middle of the advertisement, in the lower left-hand corner, in the upper right-hand corner? Who decides that?
A. As far as I could tell, it was always Philip Morris policy from our legal counsel, that we had to put it either in the bottom left or the bottom right hand of the ad. Period.

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Q. Where did you get that information from?
A. From our legal counsel.
Q. As a Brand Manager for Parliament, did you review advertising or proposed advertising before it was sent to the printer or before it was placed in various forms of media?
A. Sure.
Q. Now, what expertise do you have if any with respect to advertising?
A. At that time?
Q. Yes.
A. At that time I had been working with advertising production and composition and strategy for approximately two and a half years, and prior to that, in media for two years and been exposed to a lot of advertising, and a Masters degree in marketing in which I took several advertising courses really made up my expertise in advertising.
Q. When you look at a piece of advertising, is there a focus that you try to obtain through that advertising? Do you try to get the reader of the piece of advertising to focus in on a particular portion of the advertising?
A. It depends. It depends on the product and the campaign and what you're trying to achieve.

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Q. Can you direct a reader's attention around an advertising, let's say, here's the first point that you want them to see and then follow a natural flow through the advertising? Do you understand what I'm asking?

A. Not completely, no.

Q. If we look at a piece -- here, let's see if we can get a piece of advertising out. Maybe that will make it easier. For lack of anything better, let's try that. Why don't we mark this also.

(Exhibits P-1 and P-2 marked for identification.)

Q. Let's take a look at P-1 first. Can you tell us what that is?

A. It's a Parliament ad.

Q. Now, is there some particular initial focus in that advertisement that you're trying to achieve? Do you want somebody to look at something first in that advertising?

A. Well, I -- in terms of this particular ad, I would say visually you want someone to look at a pack of Parliament, the recessed filters sticking out, and you want them to look at this round metal container that has a eight-cigarette holder sticking out and make a visual comparison between this and

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that.

Q. How do you get a reader to do that?

A. You make these things the dominant visual element, in this case, of the ad.

Q. When you say the dominant visual -- these things. You're referring to --

A. This package of Parliament with the recessed filters and this metal container with the eight cigarette holders must occupy three quarters, if not more, of the total space of this ad.

Q. And then what would you want the reader to look at in that ad?

A. To look at?

Q. Yeah. I mean, in creating this ad, somebody wanted to convey a message to the reader, correct?

A. Yes.

Q. And in order to create that message, the person who created this ad wanted to get the reader to take a look at this ad, and take a look at the Parliament cigarettes, take a look at the cigarette holders, make that comparison and then go somewhere else in the advertisement, correct?

A. Correct.

Q. Where's the next step?

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A. The next step for me, is the headline, which The cigarette holder was such a good idea Parliament put one on every cigarette.

Q. Why for you, do you go to that next?

A. Two reasons. It's the largest type that appears in the ad and it's at the top of the page. It's also visually very close to the focus of the two dominant visual elements, the pack of Parliaments and the metal containers with the cigarette holders.

Q. And where do you go next?

A. I glance down here at the two packages of Parliament.

Q. And then where after that? You're referring to the smaller packs of Parliament?

A. Yes, the two.

Q. Center bottom?

A. Yeah, right.

Q. Then where do we go next?

A. I go right here.

Q. To the writing to the right of the smaller packs of cigarettes?

A. It works like a cigarette holder works.

Q. Why do you do that?

A. Because it's the next largest visual piece that

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my eye hasn't looked at yet.

Q. So size has something to do with how your eye flows around the advertisement, is that correct?

A. That's correct.

Q. Size of the different objects or the different messages in terms of --

A. Size of type in terms of its relation to not only the area, but where your eye is. If you're glancing up here, the type -- the only type that's up here first of all is the headline type. If you're glancing down in here then it becomes a question of this type versus this type. To my eye at least, this type wins the battle because it's larger.

Q. Referring to the type to the right of the smaller packs of cigarettes in the center bottom, is that correct?

A. Yes. It's also more inviting visually because it has space around it. It's not cluttered. It has a certain visual area that's not threatening in a way.

Q. Have you seen any studies or have any studies been conducted that you know of, to suggest to you how much of an advertisement the average reader looks at? Do they just look at the pictures

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or do they read the words? I mean, has anybody ever taken a look at that? Do they look at 75 of what's on the advertisements, 75 percent of the writing? You know, all of the objects or the pictures? You know what I'm asking?

A. Yeah. Let me see if I can answer your question without giving you a runaround answer. I have not seen studies that determine that kind of answer, and the reason I don't think I've seen studies that give you that kind of how much of a magazine ad does that consumer read is because I think it totally depends on the campaign so to speak, the positioning and how intriguing that positioning is to invite a reader into an ad, because my experience is and it's just experience based on working on this kind of stuff, is that consumers spend as much time with an ad as they are interested in the ad and if you don't basically have a positioning that is interesting and inviting, they're not going to spend much time with you at all and they may even ignore you altogether.

Q. So you have to grab their attention?

A. You have to give them so to speak a reason for them to read your advertisement. You have to intrigue them some way.

Q. Let's take a look at P-1. What is the

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intrigue that you're trying to project through P-1?

A. To me, it's again, the pack of Parliaments with the recessed filters sticking out and the metal container with the eight recessed filters or eight cigarette holders, in it, and the dominant and striking photograph of those two visuals side by side is the intriguing, the reason for someone to stop, the reason for someone to look at this ad.

Q. Let's take a look at P-2. What invites someone to take a look at P-2?

A. To me, P-2 would be -- the reason I would look at this ad would be first of all, the recessed filters held out in a row by a female, again. This is the color element in this ad, if my memory serves me correctly, this is four color and this is all white. If my memory serves me correctly, the top half is printed four color, the bottom half's white with color pack signature. The eye contact when you look at a page and you see two eyes coming back at you, that tends to stop you, intrigue you, invite you to spend a little time with this advertisement, and the row of the recessed filters which -- the way they're kind of bumping along and it's just an intriguing, if you will, visual geometry.

Q. Does color have anything to do with the

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person focusing on an advertisement?

A. Sure.

Q. In what terms?

A. If you held up a black and white print of this and you held up -- this is P-2 -- and you held up a color print of P-2, I think you would find that the color print of P-2 would be where your eye goes because it's more inviting, it's warmer, it's got more intrigue in it, just by den of being in color versus being monochromatic.

Q. Is that the same in terms of type also?

A. Color -- you mean color, if this was yellow as opposed to black?

Q. Yes. Referring to --

A. I would say not necessarily.

Q. How about contrast?

A. You'd have to help me there.

Q. In other words, there's type and the type is set on a background, right?

A. Right.

Q. As opposed to black and white is yellow on kelly green. Is that going to get your attention more than black and white in terms of type?

A. Yes.

Q. Just because of the brilliance of the

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colors, correct?

A. Brilliance might be the wrong word because in that case the kelly green and yellow might be so visually --

Q. Repulsive?

A. Repulsive to people that it would attract you more and that's, you know, some advertisers do that. They don't really care what the message is, they're just looking to get your attention.

Q. Can I have --

MR. VASSALOTTI: Mr. Edell, could you tell us where P-1 and P-2 came from and the dates of publication.

MR. EDELL: I certainly can.

MR. VASSALOTTI: Will you?

MR. EDELL: We certainly can discuss that later.

Q. In advertising, is there an attempt to project an image to the reader?

A. Sometimes.

Q. And in what instances would one project an image to the reader?

A. I don't really understand that question.

Q. Let me see if I can put it in --

A. I think you'd almost need to talk about a

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specific example to explain what you're -- which situations you're referring to.

Q. You familiar with Virginia Slims advertising?

A. Yes.

Q. Are you familiar with, for example -- let's get back to my original question. Are you familiar with the term copy platform?

A. Just familiar with it, yes.

Q. What does it mean to you?

A. It sort of means the central thought in terms of a line of copy in an advertising campaign.

Q. Is there a copy platform or was there a copy platform for Parliament cigarettes, 1970, 1974?

A. I would say Parliament's central copy point, theme, if you will, or campaign line, is -- how I would refer to it -- was it works like a cigarette holder works.

Q. Now, getting back to Virginia Slims, you were familiar with that brand and the advertising for that brand?

A. During what time period?

Q. 1968 through 1972.

A. Just remotely familiar with it.

Q. Did they have a copy platform for that

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cigarette?

MR. VASSALOTTI: I'm going to object to the question again as being outside the area that Mr. Keim is here to testify about but if Mr. Keim can answer so be it.

Q. As I said before, if you can't answer it, don't answer it.

A. I would say Virginia Slims' copy platform during that time period was you've come a long way, baby.

Q. What did that mean and what was attempted to be conveyed?

MR. VASSALOTTI: Again I'm going to object to the question and I think this time instruct the witness not to answer. He's just testified that he was only remotely familiar with the advertising in the period in question with regard to Virginia Slims, and tomorrow you will have a representative who is much more familiar with the advertising during the relevant period and I think this type of question should be appropriately addressed to her.

MR. EDELL: You mean I'm relegated only to examine the witness with the most knowledge concerning the certain issue as opposed to a person

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who may have some knowledge. Is that correct?

MR. VASSALOTTI: Mr. Keim is here as designated representative for Philip Morris today. The problem that I have, Mr. Edell, with your roaming around into other areas is what may happen later with you representing to the court or to a jury that Philip Morris's designated representative said this that or the other thing, when in fact, he was not designated or here to say anything about those things.

MR. EDELL: I will tell you that I will not say -- I'll put it right on the record. I will not say to the jury that Philip Morris's designated representative with respect to Virginia Slims, said something, when in fact it's Mr. Keim who's testifying. He is their designated representative with respect to Parliament, but if he has knowledge with respect to Virginia Slims, I am entitled to examine him on that information. You can't just present the witness in a vacuum and say here are the parameters, I'm sorry you can't go any further 'cause we don't like that.

MR. VASSALOTTI: Well, we haven't presented him in a vacuum. We've presented him in response to the parameters that you've set, and

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that's what he's here to testify to.

MR. EDELL: I understand that but I can also cross examine him on other related issues.

MR. VASSALOTTI: Well, we've made the objection and instruction.

BY MR. EDELL:

Q. Has the copy platform for Virginia Slims changed since 1968?

A. Not to my knowledge.

Q. Did you ever have any direct contact with Virginia Slims?

A. How do you mean direct contact?

Q. With the brand itself. Did you ever have any direct contact with it other than this vague reference that you said with respect to the time period 1968 through 1970. Did you have any responsibilities at any time for Virginia Slims?

A. Oh, sure, yes. I was Brand Manager of Virginia Slims.

Q. When?

A. For about three years.

Q. When?

A. '78, '77, '76, or '77, '76, '75, about in there.

Q. And the same copy platform that existed

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in '68 existed in that three-year period of time that you were Brand Manager, is that correct, to the best of your knowledge?

A. Best of my knowledge, yes.

Q. And do you have any factual basis for that statement?

A. Just what I saw as a person working at Philip Morris on the Virginia Slims advertising.

Q. And when you became Brand Manager for Virginia Slims, did you have the same orientation or similar orientation that you had when you became Brand Manager for Parliament?

A. Yes.

Q. Worked side by side with the person whose job you were taking over?

A. That's correct.

Q. And you had the opportunity to refer to whatever records existed at that time in the files of your predecessor?

A. That's correct.

Q. Did you become acquainted with the advertising campaigns that were used prior to your becoming Brand Manager for Virginia Slims?

A. Immediately prior, yes. Beyond a year or so, it really wasn't appropriate.

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Q. Did you ever review a document prepared by Leo Burnett with respect to Virginia Slims?

A. Not to my knowledge.

Q. Not a document that referred to the history of Virginia Slims and the development of the product?

A. No, not that I remember.

Q. Before I forget, you told us that you requisitioned certain files. These tracking studies regarding Parliament, the tracking study you got and the Marketing Research study, that you obtained that. What specifically did you ask for?

A. I asked for all the files that were available on Parliament cigarettes between 1970 and 1974 in both our Carlstadt storage area and in our Quick Retrieval or quick file.

Q. Was anything in the Quick Retrieval System?

A. I don't know. I got the sum total of everything. Now this stuff may have come from Quick Retrieval, it may have come from Carlstadt. I can't really tell you where those things came from. I know I double checked to make sure that we'd received everything there was in both areas.

Q. And when did you make that request?

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A. I guess about a week and a half ago or so, two weeks ago, maybe.

Q. Did anybody ask you to take a look at those documents?

A. Take a look at the documents, yes.

Q. Who asked you?

A. Our legal counsel suggested that I reviewed it.

Q. Who's that?

A. Colleen Flynn and Fred Newman and Carl Atkins.

Q. Did they tell you what files to get?

A. They said it was -- the period would be 1970 to '74, so he suggested I requisition any materials on Parliament that were around for those time periods.

Q. Is there anyone else at Philip Morris who knows about the marketing and sale of advertising of Parliament cigarettes during that period of time?

A. Well, let's see. No, I don't -- you know, there'd be some people with some knowledge, sure, but I'm not sure there'd be anybody with any more than I have.

Q. Do you know whether or not anyone else was contacted other than yourself as a prospective candidate to testify with respect to 1970, 1974 and the brand of Parliament cigarettes?

A. No, I know there's been a couple other folks

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deposed, but I don't know what they were -- whether it was specifically on Parliament or other issues.

Q. Who's James Morgan?

A. I believe he is today, I'm not sure his title is Chairman, Chief Executive Officer or Chairman and President. I'm not sure what his title is, but basically he runs Atari Corporation.

Q. Did he ever work with Philip Morris?

A. Yes, he did.

Q. What capacity?

A. Well, in a number of capacities. I don't know every position he was in, but my recollection was that in the early '70s, he was Brand Manager of Marlboro, and he was Brand Manager of Marlboro while I was Assistant Brand Manager of Marlboro. I believe subsequently he became Assistant Director of Brand Management, thereafter, I believe he became Director of Brand Management, and subsequent to that, I believe he became V.P. of Marketing, but there may have been some other positions in there. I really don't know his resume at Philip Morris that accurately, but.

Q. Do you know when he left Philip Morris?

A. It would be last year.

Q. Do you know what position he held when he

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left?

A. He was -- I may get the title wrong but he was basically Vice-president of Marketing. It might have been Executive Vice-president, or Senior Vice-president, or whatever.

Q. Is there any affiliation between Philip Morris and Atari?

A. No, not to my knowledge.

Q. I only asked you that because there are two people that you have mentioned today that have gone to Atari, I thought.

MR. VASSALOTTI: It's the same guy.

Q. Are you familiar with the United States Tobacco Journal?

A. Yes.

Q. What is that publication?

A. Primarily a trade publication for the tobacco industry that reports on industry developments and covers news of the tobacco industry so to speak in terms of what manufacturers are doing, in terms of what wholesalers are doing, wholesaling trends, retailing trends and also covers a certain amount of the confection industry, the candy business, and any other products that are of news value to the wholesale tobacco distributor.

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Q. Is it a reliable source?
A. Yes, I'd say it is reasonably reliable.
Q. Upon what facts do you base that statement?
A. Based on knowing what our company has done, and is doing, and seeing the tobacco journals' reporting of some of those events, its reliability has been pretty fair.
Q. Do you subscribe to it? Do you get a copy of it?
A. I get a copy of it now.
Q. Other than reading the journal, have you ever had any contact with anyone at the journal?
A. Yes.
Q. Can you tell us when and in regard to what?
A. When I was Director of Account Management, that was in the late '70s, one of the accounts I had the responsibility for was our wholesale tobacco distributor accounts, and every year there is a tobacco convention of the wholesale tobacco group, called the NATD, National Association of Tobacco Distributors, and it is there that I met the editor of the Tobacco Journal and I think now the assistant editor or so, Irwin Brietman, I believe is the

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editor and publisher and Hedy Helpern is the -- either assistant editor or the second in command, so to speak, at the Tobacco Journal.

Q. When you requisitioned for all the files on Parliament, would those have included the files that contain any advertising for Parliament?

A. No. No. We have an archive of advertising that we maintain in a separate department, really.

Q. What department is that?

A. I think it's in the middle of a transition right now. Currently it is or I should say in the last six months, it has been in the Marketing Administration group, and it is being transferred, I believe, to our Media group.

Q. And what -- strike that. Are all of the advertisements that have been used over the years, by Philip Morris, contained in those archives?

A. I don't know. I think most would be a correct statement of what is available in those archives. I do not know whether all of our ads are there.

Q. Is there a practice at Philip Morris with respect to sending copies of advertisements to the archives for storage?

A. Yes.

Q. And what is that practice?

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A. Generally, whenever an ad is produced, a certain number of copies are shipped to the archives for storage and those copies are maintained in a file system for future reference.

Q. And how long has that been the procedure at Philip Morris?

A. I really don't know.

Q. So long as you were aware of?

A. I think it started somewhere in the mid-'70s, you know. There had been files around and I think it was the kind of thing that we decided to kind of get it organized and cleaned up because it was a little too loose and a little too, you know, some of the stuff was at the agencies and some of the stuff was laying around Philip Morris and we were trying to get a little more precise in keeping track of our ads because it was quite a job.

Q. Did you contact the agencies to find out what they had?

A. I did not, no.

Q. I didn't mean you specifically. Did Philip Morris contact their agencies to find out what advertisements they had?

A. I would assume we would.

Q. In an attempt to consolidate everything,

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is that correct?

A. That's correct.

Q. So if you wanted all of the advertising for Parliament cigarettes for the time period 1970 through 1974, who would you go to?

A. Well --

Q. Ask your secretary.

A. Well, no, because they don't really let them out. It's more like an archive where you have to go and take a look at the stuff. I would contact Suzanne Wakid or Ann Eichwald. I think Ann just retired so Suzanne's taken over that area.

Q. On the advertisements, does it reflect when and where the advertisements appeared?

A. No.

Q. How would one ascertain where the advertisement appeared?

A. One would have to try to get ahold of an old media schedule I suppose.

Q. Would you have received an old media schedule if it existed for Parliament cigarettes for 1970 through 1974 in the requisition that you made?

A. Yeah, it should have been in there if they were still around.

Q. Have you ever published any articles,

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anything?

A. No, I don't think so. Might have had a college paper in some little paper.

Q. Is there anything in the archives other than the actual advertisements themselves, in the advertising archive?

A. I don't know.

Q. Who would know that information?

A. Probably Suzanne Wakid or as I said, Ann Eichwald.

Q. The Director for Brand Management -- Brand Management, is that the correct title?

A. Um-hum.

Q. What responsibility does that individual have?

MR. VASSALOTTI: At what point in time?

MR. EDELL: Start with 1970 through 1974 if you'd like.

A. Back during that period, the Director of Brand Management pretty much -- really worked as a group management situation. I don't think we ever thought of an individual that had responsibility for this that or the other thing, but the Director and the Brand Manager worked together to really determine the advertising and promotion for the brands and

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that strategy of course was proved by a number of folks at Philip Morris at least.

Q. You told us that you were Brand Manager for Virginia Slims and that ended what period of time?

A. Oh, I think that was around '78, maybe '77, something like that.

Q. Then what'd you do?

A. Then I was Director of Account Management.

Q. What does that mean?

A. We had a group in our Sales Department which was in charge of development of the strategies and the plans for how we merchandise and sold our products to individual classes of trade which handle our products and those range from the wholesale end of our business which was comprised of course of tobacco distributors and supermarkets; to retail accounts which are comprised of things like gas stations and again, supermarkets, convenience stores, so on and so forth, so all of the outlets that handled our product were divided up into or classified as an account group and my responsibility as Director of Account Management was to refine our merchandising and sales strategies with those accounts.

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Q. How long did you remain in that position?
A. Oh, let's see, that was about another two years or so.
Q. Then what'd you do?
A. Then I became Director of Merchandising Materials.
Q. You went through that before, right?
A. Right.
Q. How long did you do that?
A. That was about -- I guess that was about a year.
Q. And then what'd you do?
A. Then I became Assistant Director of Brand Management.
Q. And what were your responsibilities as Assistant Director of Brand Management?
A. To work with the individual Brand Managers and develop the strategies and the advertising programs and promotion programs for the brands, tobacco brands.
Q. How long did you remain in that position?
A. I guess about a year and a half or so.
Q. Then what happened?
A. Then I became Director of Brand Management.
Q. And how long did you remain as Director of Brand Management?

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A. About a year and a half. We're probably up to the 1990s by now. I don't know how all this is adding up. Yeah, about a year, year and a half, something like that.

Q. Then you have your present position?

A. No.

Q. What happened in between that?

A. Then I became Group Director of Brand Management.

Q. What is that?

A. At that time, they divided the Brand Management up, the group into two different groups, if you will, and consolidated -- at the same time, consolidating it with a promotion program group so that each of the Brand Managers had Promotion Managers working with them inside the same group as opposed to outside of the group, where they had worked before, and when they consolidated those two departments, they divided the brand group into two separate groups, so that's the reason for that.

Q. How long did you remain in that position?

A. That was about a year and a half or a year or so.

Q. Now you're 2000, what position did you get then?

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A. Director of Marketing Communications.

Q. Other than the tracking studies and the Marketing Research study that you referred to previously, did you review any other documents in preparation for this deposition?

A. No.

Q. Were you told not to review any other documents?

A. No.

Q. Did you discuss this deposition with anyone?

A. Yes, discussed it with counsel.

Q. When?

A. I guess it was a couple of weeks before the deposition, when they determined that I might be an appropriate person to represent Parliament.

Q. How much time did you spend with them?

A. Oh, I guess it was maybe a half an hour that day and then maybe an hour and a half after that.

Q. So you would say aggregately about two hours?

A. (Indicating.)

Q. Yes?

A. Yes, I'm sorry.

Q. Did you discuss this deposition with

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anyone other than counsel?

A. No.

Q. Didn't discuss it with your -- are you married?

A. Yes.

Q. Didn't you discuss it with your wife at all?

A. No.

MR. EDELL: I have no further questions.

(Deposition adjourned at 12:47 P.M.)

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C E R T I F I C A T E

I, Kelly L. Nelson, a Certified Shorthand Reporter and Notary Public of the State of New Jersey, do hereby certify that prior to the commencement of the examination, the witness and/or witnesses were sworn by me to testify to the truth, the whole truth and nothing but the truth.

I do further certify that the foregoing is a true and accurate computer-aided transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

I do further certify that I am neither of counsel nor attorney for any party in this action that I am not interested in the event nor outcome of this litigation.

Kelly L. Nelson

CSR #1239

Notary Public

My commission expires

August 17, 1986

Dated: 6/25/84

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J U R A T

I, THOMAS R. KEIM, do hereby certify that I have read the foregoing transcript of my testimony on June 13, 1984, and have signed it, subject to the following changes:

PAGE	LINE	CORRECTION

Sworn and subscribed to before me this day of , 1984.

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